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EXAMINER				
SASINOWSKI, ANDREW				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/549,372

Applicant(s)

VAN ROMPAEY ET AL.

Examiner

ANDREW J. SASINOWSKI

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 September 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☒ Information Disclosure Statement(s) (PTO/SE/US)
Paper No(s)/Mail Date 9/2005, 5/2007.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

Specification

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Objections

2. Claims 6 and 7 are objected to because of the following informalities: The preamble of claims 6 and 7 are inconsistent with the parent claim 5. Claim 5 is directed to "A data carrier" while claim 6 is directed to "A rewritable Compact Disc" and claim 7 is directed to "A Blu-Ray disc". Claims 6 and 7 must be amended to correspond to the parent claim 5.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 7 contains the trademark/trade name Blu-Ray. Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the

present case, the trademark/trade name is used to identify/describe a data carrier and, accordingly, the identification/description is indefinite.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1 through 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Moribe et. al. (US 5,661,703).

6. Regarding claim 1, Moribe teaches a data carrier [claim 12] comprising a first area [fig. 9, S1] comprising a rewritable material [claim 12], said first area being defined as a read-only area [claim 13] by means of type information recorded on said data carrier in an inerasable way [claim 12].

7. Regarding claim 2, Moribe teaches a data carrier as claimed in claim 1 [see above], said data carrier further comprising a second area [fig. 9, S2] comprising a rewritable material [claim 9], said first and second areas being parts of a same layer of said data carrier [claim 9].

8. Regarding claim 3, Moribe teaches a data carrier as claimed in claim 2 [see above], said data carrier comprising a central part [fig. 9], the first area being nearer to said central part than the second area [fig. 9, S1 and S2].

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9. Regarding claim 4, Moribe teaches a data carrier as claimed in claim 1 [see above], said data carrier comprising a type area [fig. 9, S1] comprising said type information recorded by means of pits and lands [col. 13, line 49].

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

12. Claim 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moribe in view of Shigemori [US 6,125,089].

13. Regarding claim 5, Moribe teaches a data carrier as in claim 1 [see above] that contains type information.

14. However, Moribe does not teach a data carrier wherein type information is recorded by means of a frequency modulated wobble.

15. Shigemori teaches a data carrier wherein information is recorded by means of a frequency modulated wobble [col. 1, line 22].

16. It would have been obvious at the time of invention to one with ordinary skill in the art to combine the means of recording by frequency modulation wobble with the data carrier taught by Moribe because it is well known in the art that optical disks recorded using FM wobble can be later demodulated to obtain time codes for each sector on the optical disk [Shigemori, col. 1, line 23]

17. Regarding claim 6, Moribe in view of Shigemori teach the device as taught in claim 5 [see above].

18. Moribe also teaches a Compact Disc [col. 1, line 18] with type information data encoded on the disc [see claim 4 rejection].

19. However, Moribe does not teach a rewritable Compact Disc, with type information being encoded as Absolute Time in Pre-groove data in said lead-in area.

20. Shigemori teaches a rewritable Compact Disc [col. 1, line 17] the method of recording data in the lead-in area of the optical disk encoded as Absolute Time in Pre-groove data [col. 1, line 31].

21. It would have been obvious at the time of invention to one with ordinary skill in the art to combine the method of recording data in the lead-in area of the optical disk encoded as Absolute Time In Pre-groove data taught by Shigemori with the Compact Disk with type information taught by Moribe because the Absolute Time in Pre-Groove area is used to encode many types of data including synchronization data [Shigemori, col. 1, line 36].

22. Claim 7 rejected under 35 U.S.C. 103(a) as being unpatentable over Moribe in view of Shigemori, as applied to claim 5 above, and further in view of Endoh [US 7,280,461].

23. Moribe in view of Shigemori teaches a data carrier as taught in claim 1 [see above].

24. However, Moribe in view of Shigemori does not teach a Blu-Ray disc wherein type information is recorded by mean of frequency modulated wobble, and information is encoded as Permanent Information and control data.

25. Endoh teaches a Blu-Ray disc [col. 16, line 41] wherein type information is recorded by mean of frequency modulated wobble [col. 16, line 44], and information is encoded as Permanent Information and control data [col.16, line 40].

26. It would have been obvious at the time of invention to one with ordinary skill in the art to combine the Blu-Ray disc wherein type information is recorded by means of frequency modulated wobble and information is encoded as Permanent Information and control data taught by Endoh with the data carrier taught by Moribe in view of Shigemori because the several types of data can be coded as Permanent Information and Control data, such as Table of Contents data [Endoh, col. 3, line 51 - 52]

Conclusion

27. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. MacLeod [6,598,135] teaches a data storage disk consisting of data rewritable material that has a plurality of sectors designated as either write-once or

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data-rewritable. Hajjar et. al. [US 5,675,568] teaches an optical recording system that uses FM wobble techniques to monitor when the write laser is off-track.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW J. SASINOWSKI whose telephone number is (571)270-5883. The examiner can normally be reached on Monday to Friday, 7:30 to 5:00, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Robinson can be reached on (571)272-2319. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AJS

/Mark A. Robinson/
Supervisory Patent Examiner, Art Unit 4163